INVESTIGATION summary

Forest Practices Board

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Water Pipeline right-of-way construction

Complaint Investigation 970213
Summary Report
FPB/IRC/08S
December 1997

This summary is the final report for a complaint investigation concluded by the Forest Practices Board in December 1997. Investigation of public complaints about forest practices is a primary responsibility of the Board under the Forest Practices Code of British Columbia Act (the Act). The names of the complainant and the subjects of the complaint are not disclosed in this summary to protect the privacy of the individuals involved.

The Nature of the Complaint

The complaint related to the construction of a water pipeline right-of-way on Crown land near Mt. Currie in 1996. The right-of-way accessed two water licences on a stream. During periods of high water in the spring of 1996 and 1997 the complainant noticed that water was being diverted from the stream down the right-of-way onto a public road. The complainant asserted that this water flow was causing erosion damage to the road and introducing sediment into a nearby lake. The complaint also asserted that the damage to the road resulted in a situation potentially dangerous to vehicle traffic.

The complainant had contacted the Ministry of Forests (MoF) in September 1996 regarding the concerns about safety. The Ministry of Forests visited the site to investigate in May 1997. The MoF investigation found no substantive safety issues and no apparent issues of non-compliance with any legislation. The complainant then filed a complaint with the Board in August 1997.

In the complaint to the Board, the complainant also asserted that the natural environment around a waterfall on the stream had been altered and made unsightly by the construction of the right-of-way.

The Board's Decision to Investigate

104-04406/

The Board has jurisdiction to investigate complaints about forest practices described in parts 3 - 6 of the Act and carried out by government or holders of agreements under the Forest Act or Range Act. During the assessment of the complaint, it was not clear which legislation provided the authority for the right-of-way and whether or not works had been done that would be governed by the Code. Therefore, the Board decided to conduct an investigation which initially focused on determining the extent of the Board's jurisdiction. The Board's decision to investigate was made in October 1997.

The Investigation

A Board investigation was conducted at the site in late October 1997. Both the complainant and the water licence holder who constructed the right-of-way were interviewed during the site visit. A Ministry of Environment, Lands and Parks staff member was also present.

During the site visit, sediment from running water was noted along the right-of-way and along the public road, however, erosion damage to the public road was not evident. Degradation of the visual quality of the waterfall area was evident due to the presence of the right-of-way and construction material left on the ground.

The investigation revealed that the work was done under the authority of the Water Act and there were no authorities issued under either the Forest Act or Range Act. As a result, the Board did not have jurisdiction to carry out an investigation of the complaint.

Board's Decision

The Board decided to stop investigating the complaint on December 10, 1997.

Conclusion

Despite the fact that the Board was unable to conduct a full investigation, actions are underway to address some of the complaint issues. Following the field inspection, the Ministry of Environment, Lands and Parks has initiated actions with the water licence holder to take measures to prevent the stream overflowing onto the right-of-way and to clean-up the waterfall area.

Complaint Status

Closed
File 97250-20/970123

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